

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SAFESPAWN PLATFORM SYSTEMS, INC.,
et al.,

Plaintiffs,

v.

ORDER
06-CV-726

EZ ACCESS, INC., et al.,

Defendants.

This case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1). Plaintiffs filed motions for partial summary judgment. On August 4, 2011, Magistrate Judge Scott filed a Report and Recommendation, recommending that plaintiffs' motion (Docket No. 100) for partial summary judgment to dismiss so much of defendants' Third Affirmative Defense in their Second Amended Answer (Docket No. 91, at page 4, paragraph (b)) regarding co-inventorship be granted; plaintiffs' motion for declaratory judgment be granted in part regarding denying defendants' co-invention claims, but denied in part as to whether plaintiffs defrauded the Patent and Trademark Office; plaintiffs' motions for partial summary judgment to dismiss so much of defendants' Third Affirmative Defense concerning confirmation of novelty and non-obviousness of the patents herein should be granted and dismissal of the Sixth Affirmative Defense and Tenth Affirmative Defense should be granted.

Defendant Bridgeplatforms, Inc. Filed objections to the Report and Recommendation on August 18, 2011 and plaintiffs filed a response thereto on September 9, 2011. Defendant Bridgeplatforms filed a reply to plaintiffs' response on September 22, 2011. Oral argument on the objections was held on September 22, 2011.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, plaintiffs' motion (Docket No. 100) for partial summary judgment to dismiss so much of defendants' Third Affirmative Defense in their Second Amended Answer (Docket No. 91, at page 4, paragraph (b)) regarding co-inventorship is granted; plaintiffs' motion for declaratory judgment is granted in part regarding denying defendants' co-invention claims, but denied in part as to whether plaintiffs defrauded the Patent and Trademark Office; plaintiffs' motions for partial summary judgment to dismiss so much of defendants' Third Affirmative Defense concerning confirmation of novelty and non-obviousness of the patents

herein is granted and dismissal of the Sixth Affirmative Defense and Tenth Affirmative Defense are granted.

The case is referred back to Magistrate Judge Scott for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED:October 14, 2011